

## Message Text

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ACTION TRSE-00

INFO OCT-01 AF-06 ISO-00 EB-07 L-02 /016 W

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R 200835Z FEB 75

FM AMEMBASSY NAIROBI

TO SECSTATE WASHDC 1509

UNCLAS NAIROBI 1491

E.O. 11652: N/A

TAGS: EFIN, KE, US

SUBJ: INCOME TAX CONVENTION

REF: STATE 029791

1. EMBOFF CALLED FEB. 19 ON M.S. GHEEWHALA, DEPUTY SECRETARY, MINISTRY OF FINANCE AND PLANNING, WHO REPEATED THAT HIS MINISTER (MWAI KIBAKI) READY TO SIGN DOUBLE TAXATION TREATY VIRTUALLY INTACT AS INITIALED IN JUNE 1973. ONLY CHANGE WHICH GOK WANTS IN DRAFT IS INSERTION OF FOLLOWING CLAUSE AFFECTING KENYAN TAXATION OF BRANCHES OF AMERICAN FIRMS. REGARDING THIS CLAUSE, GHEEWHALA STATES THAT ACCORDING TO GOK MINUTES TAKEN AT AUGUST 22-23 MEETINGS WITH U.S. TREASURY NEGOTIATING TEAM, U.S. TEAM HAD SIGNIFIED PROBABLE ACCEPTANCE BY USG OF WORDING:

(TO FOLLOW AS A NEW SENTENCE AFTER THE LAST WORD "RESIDENTS" IN PARAGRAPH TWO OF ARTICLE SEVEN.)  
QUOTE: PROVIDED THAT THIS PARAGRAPH SHALL NOT PREVENT THE GOVERNMENT OF ONE OF THE TERRITORIES FROM IMPOSING ON THE PROFITS ATTRIBUTABLE TO A PERMANENT ESTABLISHMENT IN THAT TERRITORY OF A COMPANY WHICH IS A RESIDENT OF THE OTHER TERRITORY A TAX NOT EXCEEDING 7 AND A HALF PERCENT OF THEIR PROFITS IN ADDITION TO THE TAX WHICH WOULD BE CHARGEABLE ON THOSE PROFITS IF THEY WERE THE PROFITS OF A COMPANY WHICH WAS A RESIDENT OF THE TERRITORY OF THEIR GOVERNMENT. UNQUOTE

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2. IF USG ACCEPTS INCLUSION OF CLAUSE, GHEEWHALA HAS

NO OBJECTION TO DEPARTMENT'S PREPARING TREATY FOR SIGNATURE IN NAIROBI BY AMBASSADOR. SINCE HE PLANS LEAVE MINISTRY FOR PRIVATE BUSINESS AT END THIS MONTH, HE HOPES TREATY CAN BE POUCHED IN TIME TO PERMIT HIM, AS HEAD OF GOK NEGOTIATING TEAM, TO BE PRESENT AT SIGNING. EMBOFF VENTURED NO GUESS ABOUT WHEN TREATY WILL BE READY IF USG AGREES WITH AMENDMENT OF DRAFT.

3. GHEEWHALA APPRECIATED CONCESSION PERMITTING KENYAN TAXATION OF MANAGEMENT FEES. HE UNDERSTOOD NEED FOR RATIFICATION OF TREATY BY U.S. SENATE.

4. PLEASE ADVISE EMBASSY SOONEST REGRADING ACCEPTABILITY OF PROPOSED GOK AMENDMENT TO DRAFT TREATY. WOULD ALSO APPRECIATE ESTIMATE OF POSSIBLE DATE FOR TRANSMITTAL OF TREATY TO EMBASSY.  
MARSHALL

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** INCOME TAXES, TAX AGREEMENTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 20 FEB 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
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